

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANGELA A. WEAR,)	
)	
Plaintiff,)	
)	Civil Action No. 11-901
v.)	
)	Judge Mark R. Hornak
COMMISSIONER OF)	Magistrate Judge Lisa Pupo Lenihan
SOCIAL SECURITY,)	
)	
Defendant.)	

MEMORANDUM ORDER

Angela A. Wear (“Plaintiff”) brings this action pursuant to 42 U.S.C. § 405(g), seeking review of the final determination of the Commissioner of Social Security (“Defendant” or “Commissioner”) denying her application for disability insurance benefits (“DIB”) under Title II of the Social Security Act, 42 U.S.C. §§ 401 – 433. The case was referred to United States Magistrate Judge Lisa Pupo Lenihan in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge’s Report and Recommendation (ECF No. 16), filed on April 30, 2012, recommended that Plaintiff’s Motion for Summary Judgment (ECF No. 12) be denied and Defendant’s Motion for Summary Judgment (ECF No. 14) be granted. Service was made on all counsel of record. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections.

Plaintiff filed objections (ECF No. 17) to the Report and Recommendation on May 15, 2012. After review of the pleadings and documents in the case, together with the Report and Recommendation and objections thereto, the following Order is entered:

AND NOW, this 6th day of July, 2012,

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 16) of United States Magistrate Judge Lisa Pupo Lenihan, dated April 30, 2012, is adopted as the opinion of the Court. In particular, the Court notes that the Report and Recommendation sets forth that the Administrative Law Judge (“ALJ”) considered the Plaintiff’s history of headaches when formulating his residual functional capacity assessment at “Step 5” of the standard disability analysis. Further, as recited by the Magistrate Judge, the record as to the severity of Plaintiff’s headaches is, at best, equivocal, and to the extent the ALJ did not consider them to be severe under “Step 2” of that disability analysis, the substantial evidence of record supports that conclusion.

IT IS FURTHER ORDERED that the Motion for Summary Judgment filed by Plaintiff Angela A. Wear (ECF No. 12) is **DENIED**, and the decision of the Commissioner of Social Security is **AFFIRMED**, pursuant to the fourth sentence of 42 U.S.C. § 405(g).

IT IS FURTHER ORDERED that judgment is entered in favor of Defendant Commissioner of Social Security and against Plaintiff pursuant to Rule 58 of the Federal Rules of Civil Procedure, and the case marked closed.

s/ Mark R. Hornak
Mark R. Hornak
United States District Judge

Dated: July 6, 2012
cc/ecf: All counsel of record.